



1 **TO THE HONORABLE COURT:**

2 Pursuant to the Court's June 25, 2025 Notice and Order (Dkt. No. 123),  
3 Plaintiffs Jonathan Wayne Botten, Sr., Tanja Dudek-Botten, Annabelle Botten, and  
4 J.B., a minor by and through his guardian *ad litem* Jonathan Wayne Botten, Sr.  
5 ("Plaintiffs") and Defendants Isaiah Kee and Bernardo Rubalcava ("Defendants")  
6 (collectively, "the Parties"), hereby submit this Joint Status Report regarding how the  
7 Parties wish to proceed with this matter in light of Defendants' interlocutory appeal.

8 On June 4, 2025, before any pretrial filings were due, Defendants filed a  
9 Notice of Appeal to the Ninth Circuit (Dkt. No. 121) on the denial of qualified  
10 immunity on Plaintiffs' Fourth Amendment claim under 42 U.S.C. § 1983. It is the  
11 Parties' understanding, and Defendants' position, that an interlocutory appeal from  
12 the denial of qualified immunity divests the district court of jurisdiction to proceed  
13 with trial. *Mitchell v. Forsyth*, 472 U.S. 511, 530 (1985); *Chuman v. Wright*, 960  
14 F.2d 104, 105 (9th Cir. 1992). Accordingly, it is the Parties' understanding that the  
15 Court is currently without jurisdiction, and the Parties cannot proceed with the Final  
16 Pretrial Conference and Trial.

17 However, it is the Plaintiffs' desire to avoid protracted delay in proceeding  
18 with trial. Accordingly, the Parties have reached a tentative agreement whereby the  
19 Plaintiffs will dismiss with prejudice their Fourth Amendment claim in exchange for  
20 Defendants' dismissal of their interlocutory appeal without prejudice to  
21 reinstatement. Plaintiffs have also conveyed to Defendants that after the dismissal of  
22 their Fourth Amendment claim, they intend to request that the Court exercise  
23 supplemental jurisdiction over the remaining state law claims and request a new trial  
24 date within the next few months. Defendants have indicated that they will not oppose  
25 a request for the Court to exercise supplemental jurisdiction over the state law claims  
26 and are in agreement with finding a new trial date within the next few months should  
27 the Court exercise its discretion to exercise supplemental jurisdiction over the  
28 remaining state law claims.

The Parties are working on the terms of the stipulation and anticipate that they will file a formal stipulation for dismissal, with prejudice, of Plaintiffs' Fourth Amendment claim by the end of next week and Defendants will file their dismissal of the interlocutory appeal within the same time frame. Plaintiffs will then proceed with filing a request for the Court to exercise jurisdiction over Plaintiffs' remaining state law claims and to reset the trial date and all related pretrial dates.

8 | Respectfully Submitted,

10 | DATED: July 1, 2025

## LAW OFFICES OF DALE K. GALIPO

By \_\_\_\_\_ /s/ *Hang D. Le*  
Dale K. Galipo  
Hang D. Le  
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DATED: July 1, 2025

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*/s/ Diana Esquivel\**

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25 \*The filer, Hang D. Le, hereby attests that all other signatories listed, and on whose  
26 behalf the filing is submitted, concur with the filing's content and have authorized  
27 the filing.